

IN THE UNITED STATES DISTRICT COURT
WESTERN DIVISION OF TENNESSEE
WESTERN DISTRICT

FILED BY Whe D.C.

05 JUL 11 PM 4: 09

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

BANCORP SOUTH BANK,

Plaintiff,

VS.

CIVIL ACTION NO. 04-2420-B

**JUSTIN HERTER A/K/A BARRY
J. HERTER, CAPITOL MANAGEMENT,
INC., ROBERT POWELL, JANET
POWELL AND SILVESTRE LOERA,**

Defendants.

~~PROPOSED~~ AMENDED SCHEDULING ORDER

Pursuant to written notice, a scheduling conference was held on July 7, 2005. Present were Catherine B. Clayton, counsel for plaintiff; Kevin Snider, counsel for Justin Herter and Capitol Management; and James S. Strickland, counsel for Robert Powell, Janet Powell and Silvestre Loera. At the conference the following dates were established as the final dates for:

COMPLETING ALL DISCOVERY: December 9, 2005

- (a) **REQUEST FOR PRODUCTION, INTERROGATORIES and REQUEST FOR ADMISSIONS:** September 9, 2005
- (b) **EXPERT DISCLOSURE (Rule 26(a)(2)):**
 - (i) Plaintiff's Experts: September 8, 2005
 - (ii) Defendant's Experts: October 8, 2005
 - (iii) Supplementation under Rule 26(e): October 22, 2005

(c) **DEPOSITIONS:** December 9, 2005

FILING DISPOSITIVE MOTIONS: January 9, 2005

FINAL LIST OF WITNESSES AND EXHIBITS (Rule 26(a)(3)):

(a) for Plaintiff: 45 days before trial

(b) for Defendant: 30 days before trial.

Parties shall have 10 days after service of final list of witnesses and exhibits to file objections under Rule 26(a)(3).

The trial of this matter is expected to last 3-4 days. The presiding judge will set this matter for **NON-JURY TRIAL**. In the event the parties are unable to agree on a joint pretrial order, the parties must notify the court at least ten days before trial.

OTHER RELEVANT MATTERS:

The Plaintiff agrees to answer discovery propounded by Justin Herter and Capital Management on December 30, 2004 within 30 days of this order.

Interrogatories, Request for Production and Requests for Admissions must be submitted to the opposing party in sufficient time for the opposing party to respond by the deadline for completion of discovery. For example, if the FRCP allow 30 days for a party to respond, then the discovery must be submitted at least 30 days prior to the deadline for completion of discovery.

Motion to compel discovery are to be filed and served by the discovery deadline or within 30 days of the default or the service of the response, answer, or objection, which is the subject of the motion, if the default occurs within 30 days of the discovery deadline, unless the tie for filing of such motion is extended for good cause shown, or the objection to the default, response, answer, or objection shall be waived.

The parties are reminded that pursuant to Local Rule 11 (a)(1)(A), all motions, except motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60 shall be accompanied by a proposed Order and a Certificate of Consultation.

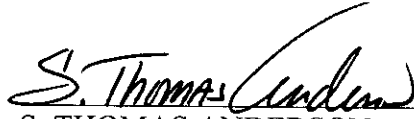
The opposing party may file a response to any motion filed in this matter. Neither party may file an additional reply, however, without leave of the court. If a party believes that a reply is necessary, it shall file a motion for leave to file a reply accompanied by a memorandum setting forth the reasons for which a reply is required.

The parties have not consented to a trial before the magistrate judge.

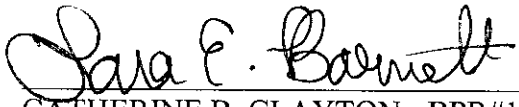
The parties are ordered to engage in court-annexed attorney mediation or private mediation on or before the close of discovery.


This order has been entered after consultation with trial counsel pursuant to notice. Absent good cause shown, the scheduling dates set by this order will not be modified or extended.


IT IS SO ORDERED.

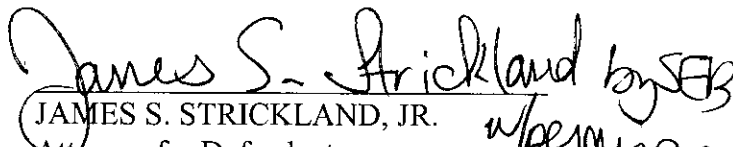

S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE
DATE: July 08, 2005

APPROVED FOR ENTRY:


CATHERINE B. CLAYTON - BPR#10929
SARA E. BARNETT - BPR #021379
Attorneys for Plaintiff
312 E. Lafayette, P.O. Box 2004
Jackson, TN 38302-2004
731-424-0461


KEVIN SNIDER
Attorney for Defendants *w/permission*
Justin Herter and Capital Management
7700 Poplar Ave., Ste. 212
Germantown, TN 38138


J. PATRICK CALDWELL *by SEB w/permission*
Attorney for Plaintiff
P.O. Box 1836
207 Court St.
Tupelo, MS 38804


JAMES S. STRICKLAND, JR. *by SEB w/permission*
Attorney for Defendants
Robert Powell, Janet Powell
and Silvestre Loera
44 N. Second Street
Memphis, TN 38103



Notice of Distribution

This notice confirms a copy of the document docketed as number 25 in case 2:04-CV-02420 was distributed by fax, mail, or direct printing on July 12, 2005 to the parties listed.

J. Patrick Caldwell
RILEY CALDWELL CORK AND ALVIS
P.O. Box 1836
207 Court St.
Tupelo, MS 38804

James S. Strickland
KUSTOFF & STRICKLAND
44 N. Second St.
Ste. 502
Memphis, TN 38103

Kevin A. Snider
SNIDER HORNER & NEW, PLLC.
7700 Poplar Ave.
Ste. 212
Germantown, TN 38138

Catherine B. Clayton
SPRAGINS BARNETT COBB & BUTLER
312 East Lafayette St.
Jackson, TN 38302--200

Honorable J. Breen
US DISTRICT COURT